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AN ACT

RELATING TO STATE REVENUE; IMPOSING A DAILY BED SURCHARGE ON CERTAIN LICENSED HEALTH FACILITIES; PROVIDING FOR A DISTRIBUTION TO THE MEDICAID PROGRAM; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. DAILY BED SURCHARGE--IMPOSITION--
ADMINISTRATION.--

A. A daily bed surcharge is imposed on each licensed nursing home, licensed intermediate care facility for the mentally retarded and licensed residential treatment center. Unless exempted pursuant to Subsection C of this section, the surcharge shall be per day for each occupied bed of the nursing home, intermediate care facility for the mentally retarded or residential treatment center. The rate of the surcharge shall be annually determined by the human services department pursuant to Subsection B of this section.

B. No later than June 1 of each year, the human services department shall, pursuant to the provisions of this subsection, determine the rate of the daily bed surcharge to be paid by each licensed nursing home, licensed intermediate care facility for the mentally retarded and licensed residential treatment center during the subsequent fiscal year and shall notify the taxation and revenue department and

1 each such nursing home, intermediate care facility and
2 treatment center of the applicable rates. In determining the
3 rates, the human services department shall:

4 (1) set a uniform rate on the maximum number
5 of nursing homes, intermediate care facilities for the
6 mentally retarded and residential treatment centers as
7 allowed by any federal law or rule governing the approval of
8 the state medicaid plan or any waiver from that plan; and

9 (2) structure the rates for each nursing
10 home, intermediate care facility for the mentally retarded
11 and residential treatment center so that the total estimated
12 revenue received in the subsequent fiscal year from all such
13 nursing homes, intermediate care facilities and treatment
14 centers will equal six percent of the gross revenue,
15 calculated on an accrual basis, received by the nursing
16 homes, intermediate care facilities and treatment centers in
17 the previous calendar year.

18 C. The human services department shall study the
19 feasibility of applying for a federal waiver to exempt
20 medicare and private beds from the daily bed surcharge. If,
21 upon application of the department, such a waiver is granted,
22 medicare and private beds are exempt from the surcharge.

23 D. The surcharge imposed pursuant to this section
24 may be referred to as the "daily bed surcharge". Each
25 licensed nursing home, licensed intermediate care facility

1 for the mentally retarded and licensed residential treatment
2 center is responsible for remitting the daily bed surcharge
3 to the taxation and revenue department. The surcharge shall
4 be remitted on or before the twenty-fifth day of the month
5 following the month for which the surcharge is due. The
6 taxation and revenue department shall administer and enforce
7 the collection of the surcharge pursuant to the provisions of
8 the Tax Administration Act.

9 Section 2. DISTRIBUTION--MEDICAID PROGRAM.--A
10 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
11 made to the general fund to be used solely for the medicaid
12 program in an amount equal to the net receipts attributable
13 to the daily bed surcharge.

14 Section 3. Section 7-1-2 NMSA 1978 (being Laws 1965,
15 Chapter 248, Section 2, as amended) is amended to read:

16 "7-1-2. APPLICABILITY.--The Tax Administration Act
17 applies to and governs:

18 A. the administration and enforcement of the
19 following taxes or tax acts as they now exist or may
20 hereafter be amended:

- 21 (1) Income Tax Act;
- 22 (2) Withholding Tax Act;
- 23 (3) Venture Capital Investment Act;
- 24 (4) Gross Receipts and Compensating Tax Act

25 and any state gross receipts tax;

- 1 (5) Liquor Excise Tax Act;
- 2 (6) Local Liquor Excise Tax Act;
- 3 (7) any municipal local option gross
- 4 receipts tax;
- 5 (8) any county local option gross receipts
- 6 tax;
- 7 (9) Special Fuels Supplier Tax Act;
- 8 (10) Gasoline Tax Act;
- 9 (11) petroleum products loading fee, which
- 10 fee shall be considered a tax for the purpose of the Tax
- 11 Administration Act;
- 12 (12) Alternative Fuel Tax Act;
- 13 (13) Cigarette Tax Act;
- 14 (14) Estate Tax Act;
- 15 (15) Railroad Car Company Tax Act;
- 16 (16) Investment Credit Act, Capital
- 17 Equipment Tax Credit Act, rural job tax credit, Laboratory
- 18 Partnership with Small Business Tax Credit Act and Technology
- 19 Jobs Tax Credit Act;
- 20 (17) Corporate Income and Franchise Tax Act;
- 21 (18) Uniform Division of Income for Tax
- 22 Purposes Act;
- 23 (19) Multistate Tax Compact;
- 24 (20) Tobacco Products Tax Act;
- 25 (21) the telecommunications relay service

1 surcharge imposed by Section 63-9F-11 NMSA 1978, which
2 surcharge shall be considered a tax for the purposes of the
3 Tax Administration Act; and

4 (22) the daily bed surcharge imposed on
5 licensed nursing homes, intermediate care facilities for the
6 mentally retarded and residential treatment centers, which
7 surcharge shall be considered a tax for purposes of the Tax
8 Administration Act until June 30, 2007;

9 B. the administration and enforcement of the
10 following taxes, surtaxes, advanced payments or tax acts as
11 they now exist or may hereafter be amended:

- 12 (1) Resources Excise Tax Act;
- 13 (2) Severance Tax Act;
- 14 (3) any severance surtax;
- 15 (4) Oil and Gas Severance Tax Act;
- 16 (5) Oil and Gas Conservation Tax Act;
- 17 (6) Oil and Gas Emergency School Tax Act;
- 18 (7) Oil and Gas Ad Valorem Production Tax
19 Act;
- 20 (8) Natural Gas Processors Tax Act;
- 21 (9) Oil and Gas Production Equipment Ad
22 Valorem Tax Act;
- 23 (10) Copper Production Ad Valorem Tax Act;
- 24 (11) any advance payment required to be made
25 by any act specified in this subsection, which advance

1 payment shall be considered a tax for the purposes of the Tax
2 Administration Act;

3 (12) Enhanced Oil Recovery Act;

4 (13) Natural Gas and Crude Oil Production
5 Incentive Act; and

6 (14) intergovernmental production tax credit
7 and intergovernmental production equipment tax credit;

8 C. the administration and enforcement of the
9 following taxes, surcharges, fees or acts as they now exist
10 or may hereafter be amended:

11 (1) Weight Distance Tax Act;

12 (2) the workers' compensation fee authorized
13 by Section 52-5-19 NMSA 1978, which fee shall be considered a
14 tax for purposes of the Tax Administration Act;

15 (3) Uniform Unclaimed Property Act;

16 (4) 911 emergency surcharge and the network
17 and database surcharge, which surcharges shall be considered
18 taxes for purposes of the Tax Administration Act;

19 (5) the solid waste assessment fee
20 authorized by the Solid Waste Act, which fee shall be
21 considered a tax for purposes of the Tax Administration Act;

22 (6) the water conservation fee imposed by
23 Section 74-1-13 NMSA 1978, which fee shall be considered a
24 tax for the purposes of the Tax Administration Act; and

25 (7) the gaming tax imposed pursuant to the

1 Gaming Control Act; and

2 D. the administration and enforcement of all other
3 laws, with respect to which the department is charged with
4 responsibilities pursuant to the Tax Administration Act, but
5 only to the extent that the other laws do not conflict with
6 the Tax Administration Act."

7 Section 4. DELAYED REPEAL.--Sections 1 and 2 of this
8 act are repealed effective June 30, 2007.

9 Section 5. APPLICABILITY.--The daily bed surcharge
10 imposed pursuant to Section 1 of this 2004 act applies to beds
11 occupied on or after July 1, 2004. _____

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